IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Bail Appl..No. 3737 of 2007()

CMP.2572/2007 of J.M.F.C.-III,TRIVANDRUM
CRIME NO.121/2007 OF CANTONMENT POLICE STATION

.....

: PETITIONER/ACCUSED IN CUSTODY;

KUMAR,@ KALLA KUMAR, S/O.KESAVA KURUP,
FLAT.NO. 248,RAJAJI NAGAR,SECRETARIAT WARD,
THYCAUD VILLAGE.

BY ADV. SMT.P.A.ANITHA

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY ITS
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3737 of 2007

Dated this the 22nd day of June, 2007

ORDER

Application for regular bail. The petitioner was allegedly found in possession of 1 litre of arrack and 62 grams of ganja (small quantity) on 26.05.2007. He was arrested and continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner may now be enlarged on bail, he having already spent a period of about one month in prison, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor stoutly opposes the application. The offence alleged against the accused under the N.D.P.S Act is of course bailable, but the offence under the Abkari Act is one to which Section 41 A of the said Act applies. The petitioner is accused in as many as 7 other cases, all registered under the Abkari Act and the N.D.P.S Act. In these circumstances, it is prayed that bail may not be granted to the petitioner at this early stage.

4. In the wake of the opposition by the learned Public Prosecutor , bail can be granted to the petitioner only if this Court is in a position to entertain both satisfactions contemplated under Section 41 A of the Kerala Abkari Act. In the light of the antecedents

of the petitioner, which have been brought to the notice of the Court by the learned Public Prosecutor, and which allegation is not controverted, I am not satisfied that either of the two satisfactions can be entertained now. I find merit in the submission of the learned Public Prosecutor that the Investigator deserves to be given further time to complete the investigation before the question of release of the petitioner is considered.

5. In the result, the application is, dismissed. I may hasten to observe that the petitioner shall be at liberty to move this Court for bail again at a later stage of the investigation, not at any rate, prior to 06.07.2007.

(R.BASANT, JUDGE)

rtr/-